

REMARKS

It is noted that the Examiner issued a restriction requirement with Group I, claims 1 through 4 drawn to a disposable pad classified in Class 442 subclass 59 plus; Group II, claims 5 through 10 drawn to a disposable pad and its container, classified in Class 224 and various subclasses. Applicant elected claims 1 through 4 drawn to the disposable pad. Applicant has cancelled claims 5 through 10.

The Examiner's rejection of claims 1 through 4 under the judicially created doctrine of obviousness type double patenting as being unpatentable over claims 1 and 2 of U.S. Patent No. 6,265,084 is respectfully traversed. Claims 1 and 2 of the '084 patent include the container which is not the essence of this invention at all. Applicant, in this invention, is claiming a pad of a unique shape and structure not shown in the prior art and not obvious in view of the '084 patent claims. Therefore, the applicant respectfully traverses the Examiner's requirement for a terminal disclaimer under the doctrine of obviousness type double patenting.

Applicant has corrected the specification to include the fact that the original application 09/119,204 has matured into U.S. Patent No. 6,265,084.

Examiner's rejection of claims 1 through 4 under 35 U.S.C. 103(a) as being unpatentable over Yamada JP-8-164094 in view of Iwahashi USPN 4,938,957 further in view of WO 98/22280 to Jenkins or Creamer USPN 4,125,656 is respectfully traversed. Yamada does not teach applicant's claimed invention in claims 1, 3 and 4. Applicant has claimed two layers bonded together and an adhesive for applying to a floor surface for non-skid purposes. Further, applicant has claimed a uniquely shaped trapezoidal pie shaped device that cuts down the amount of material used while still covering the specific area of

concern underneath the urinal. There must be some suggestion or teaching explicit or implied in the references to arrive at the combination of elements claimed by the applicant in claims 1, 3 and 4. There are no suggestions in any of these references to reach a combined teaching of applicant's invention which includes two bonded layers one of absorbent material and one that is liquid impervious that includes adhesive for attachment to a floor surface while at the same time providing a trapezoidal shape that is a pie-shaped segment. C.R. Bard, Inc. v. M Three Systems, Inc., 157 F.3d 1340, 48 U.S.P.Q.2d 1225 (Fed. Cir. 1998). The Examiner has stated that the combination cited by the Examiner of these references would have been obvious to a person having ordinary skill in the art at the time of the invention was made to have fabricated the mat of Yamada with the underlying adhesive of either Jenkins or Creamer motivated by reasoned expectation of keeping a disposable pad in place. There is no suggestion in these references for the combination. Further, the Examiner states that applicant claims a trapezoidal shape while the reference Yamada discloses rectangular shaped mats. The Examiner states a skilled artisan would have found it obvious to have modified the shape of the pad so that it would fit around the urinal or toilet. This is not the problem being addressed by applicant's invention. The problem is the spray pattern beneath the urinal and the amount of material used and the fact that people have to stand in front of the urinal. It is not enough to imply basic knowledge or common sense in 35 U.S.C. 103 obviousness rejection. There must be evidence of a suggestion to arrive at applicant's claimed invention. In re Zurko, 258 F.3d 1379, 59 U.S.P.Q.2d 1693 (Fed. Cir. 2001).

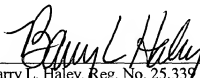
It is believed that the Examiner has failed to provide a prima facie obviousness case under 35 U.S.C. 103(a). Further, there is no suggestion or teaching to arrive at applicant's claimed invention including finding a pad of applicant's claimed construction that includes trapezoidal shape.

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It is believed that claims 1, 3 and 4 are now allowable over the art of record. Claim 2 has been cancelled with the limitations included in amended claim 1.

If there are any additional charges, including extension of time, please bill our Deposit Account No. 13-1130.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Barry L. Haley", is written over a horizontal line.

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